

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

June 1, 2012

\_\_\_\_\_  
No. 09-70017  
\_\_\_\_\_

Lyle W. Cayce  
Clerk

IVAN ABNER CANTU,

Petitioner - Appellant,

v.

RICK THALER, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL  
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent - Appellee,

\_\_\_\_\_  
Appeal from the United States District Court  
for the Eastern District of Texas  
\_\_\_\_\_

ON REMAND FROM THE SUPREME COURT  
OF THE UNITED STATES

Before STEWART, CLEMENT, and OWEN, Circuit Judges.

PER CURIAM:

In our earlier consideration of this case, we affirmed the district court's dismissal of Cantu's petition for federal habeas relief. *See Cantu v. Thaler*, 632 F.3d 157 (5th Cir. 2011). Among other grounds for relief, Cantu argued that he had received ineffective assistance of counsel at trial. We held that this claim was procedurally defaulted, and that Cantu's contention that his state habeas counsel was ineffective did not constitute cause for the procedural default. The

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Supreme Court has remanded the case for us to consider the effect of *Martinez v. Ryan*, 566 U.S. \_\_\_\_ (2012) on our holding.

IT IS ORDERED that this matter be remanded to the district court so that the district court may decide in the first instance the impact of *Martinez v. Ryan* on Cantu's contention that he had cause for his procedural default.

**A true copy**

**Attest:**

**Clerk, U. S. Court of Appeals, Fifth Circuit**

By

**Deputy**

**New Orleans, Louisiana**